

Presidential Documents

Executive Order 12443 of September 27, 1983

Central Intelligence Agency Retirement and Disability System

By the authority vested in me as President of the United States of America by Section 292 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note), and in order to conform further the Central Intelligence Agency Retirement and Disability System to certain amendments in the Civil Service Retirement and Disability System pursuant to Public Laws 97-253, 97-346, and 97-377, it is hereby ordered as follows:

Section 1. Section 231(b)(2) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended to read as follows:

"(b)(2) If the annuitant receiving disability retirement annuity is restored to earning capacity, before becoming sixty years of age, payment of the annuity terminates on reemployment by the Government or 180 days after the end of the calendar year in which earning capacity is restored, whichever is earlier. Earning capacity is restored if in any calendar year the income of the annuitant from wages or self-employment or both equals at least 80 per centum of the current rate of pay of the position occupied at the time of retirement."

Sec. 2. Section 5 of Executive Order No. 12326 of September 30, 1981, which previously amended the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended to read as follows:

"Sec. 5. For the purpose of ensuring the accuracy of information used in the administration of the Central Intelligence Agency Retirement and Disability System, the Director of Central Intelligence may request, from the Secretaries of Defense, Health and Human Services, and Labor, and the Administrator of Veterans Affairs, such information as the Director deems necessary. To the extent permitted by law:

"(a) the Secretary of Defense or the Secretary's designee shall provide information on retired or retainer pay provided under Title 10 of the United States Code;

"(b) The Administrator of Veterans Affairs shall provide information on pensions or compensation provided under Title 38 of the United States Code;

"(c) The Secretary of Health and Human Services or the Secretary's designee shall provide information contained in the records of the Social Security Administration; and

"(d) The Secretary of Labor or the Secretary's designee shall provide information on benefits paid under subchapter I of Chapter 81 of Title 5 of the United States Code.

"The Director, in consultation with the officials from whom information is requested, shall ensure that information made available under this Section is used only for the purposes authorized."

Sec. 3. Section 281(a) of the Central Intelligence Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by inserting after "at 3 per centum per annum" the following: "through December 31, 1984,

and thereafter at the rate computed under Section 8334(e) of Title 5 of the United States Code."

Sec. 4. Section 221(k) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended to read as follows:

"(k) For the purpose of an annuity computed under this section, the total service of any participant shall not include any period of civilian service on or after October 1, 1982, for which retirement deductions or deposits have not been made under section 252(b), unless the participant makes a deposit for such period as provided in section 252, or no deposit is required for such service as provided under Section 8334(g) of Title 5 of the United States Code, or under any statute."

Sec. 5. Section 241(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended to read as follows:

"(a) Whenever a participant becomes separated from the Agency, or is transferred to a position in which he is not subject to this Act, for at least thirty-one consecutive days without becoming eligible for an annuity in accordance with the provisions of this Act, the total amount of contributions from his salary with interest thereon at 4 percent per year to December 31, 1947, and 3 percent per year thereafter compounded annually to December 31, 1956, except as provided in section 281, shall, upon application, be returned to him. The return of contributions shall be made only if the participant is not reemployed in a position in which he is subject to this Act at the time he files the application for refund and will not become eligible for an annuity within thirty-one days after filing such application. The receipt of the payment of the lump-sum credit by the participant voids all annuity rights under the Act based on the service on which the lump-sum credit is based, until the participant is reemployed in the service subject to the Act. The payment of the lump-sum credit shall include amounts deposited by a participant covering earlier service as well as any amounts deposited under section 252(h)".

Sec. 6. Section 291(f) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by striking out "fixed at the nearest" and inserting "rounded to the next lowest" in lieu thereof.

Sec. 7. Section 221(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by adding the following at the end thereof:

"Each annuity shall be stated as an annual amount, one twelfth of which, rounded to the next lowest dollar, constitutes the monthly rate payable on the first business day of the month after the month or other period for which it has accrued."

Sec. 8. Section 221(i) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended to read as follows:

"(i) Except as otherwise provided, the annuity of a participant shall commence on the first day of the month after separation from the service, or on the first day of the month after pay ceases and the service and age requirements for title to an annuity are met. With respect to those participants who serve three days or less in the month of retirement, the annuity will commence on the day after separation or the day after pay ceases and the service and age requirements for title to an annuity are met. The annuity of a participant involuntarily separated from the service, except for removal for cause on charges of misconduct or delinquency, or of a participant retiring due to a disability shall commence on the day after separation from the service or the day after pay ceases and the service and age or disability requirements for title to an annuity are met. Any other annuity payable from the Fund shall commence on

the first day of the month after the occurrence of the event on which payment thereof is based."

Sec. 9. Section 252(e) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by inserting "(1)" before the first sentence thereof, by inserting "(2)" before the second sentence thereof and by striking out "chapter 11" and inserting "section 301" in lieu thereof, by deleting the last sentence thereof and by adding the following paragraph (3):

"(3) Except as provided in paragraphs (1) and (2) of this subsection, the service of an individual who first becomes a Federal employee before October 1, 1982 shall include credit for each period of military service performed before the date of the separation on which the entitlement to an annuity under this subsection is based, subject to section 252(f); and the service of an individual who first becomes a Federal employee on or after October 1, 1982 shall include credit for:

"(i) each period of military service performed before January 1, 1957, and

"(ii) each period of military service performed after December 31, 1956, and before separation on which the entitlement to annuity under this section is based, only if a deposit (with interest, if any) is made with respect to that period as provided in subsection (h) of this section."

Sec. 10. Section 252(f) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by inserting "(1)" after "(f)" and adding new paragraphs (2) and (3) as follows:

"(2) The provisions of paragraph (1) above relating to credit for military service shall not apply to—

"(A) any period of military service of a participant with respect to which he or she has made a deposit with interest, if any, under section 252(e) of this Act; or

"(B) the military service of any participant who has been awarded retired pay on account of a service-connected disability caused by an instrumentality of war and incurred in the line of duty during a period of war as that term is defined in section 301 of Title 38 of the United States Code."

"(3) The annuity recomputation required by paragraph (1) above shall not apply to any individual who was entitled to an annuity under this section on or before September 8, 1982. Instead of an annuity recomputation, the annuities of such individuals shall be reduced at age 62 by an amount equal to a fraction of their Social Security benefit. This reduction shall be computed by multiplying their monthly Social Security benefit by a fraction, the numerator of which is their total military wages that were subject to Social Security deductions and the denominator of which is their total lifetime wages, including military wages, that were subject to Social Security deductions. The reductions so computed shall not be permitted to be greater than the reductions that will be required by paragraph (1) if that paragraph applied to the individual for that period. The new formula shall be applicable to all annuity payments payable after October 1, 1982, including annuity payments to those individuals who had previously reached age 62 and whose annuities had already been recomputed."

Sec. 11. Section 252 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by adding a new subsection (h) as follows:

"(h)(1) Each participant who has performed military service before the date of separation on which the entitlement to any annuity under this section is based may pay, in accordance with rules issued by the Director, to the Agency an amount equal to 7 percent of the amount of basic pay paid under section 204 of Title 37 of the United States Code to the participant for each period of military service after December 1956. The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide,

or if the Director or his designee determines sufficient evidence has not been provided to adequately determine basic pay for military service, such payment shall be based upon estimates of such basic pay provided to the Director under paragraph (4)."

"(2) Any deposit made under paragraph (1) of this subsection more than two years after the later of—

(A) October 1, 1982, or ¹⁹⁸³

(B) the date on which the participant making the deposit first becomes an employee of the Federal government—shall include interest on such amount computed and compounded annually beginning on the date of expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (b) of this section."

"(3) Any payment received by the Agency under this subsection shall be immediately remitted to the Office of Finance for deposit in the Treasury of the United States to the Credit of the CIARDS Fund.

"(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Director as the Director may determine to be necessary for the administration of this subsection."

Sec. 12. Section 261(d)(2) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by adding after the words "allowed for military service" the following: ", less an amount determined by the Director to be appropriate to reflect the value of the deposits made to the credit of the Fund under section 252(e), and".

Sec. 13. Section 235(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by deleting the final sentence thereof and substituting the following wording:

"A participant who is separated involuntarily from service, except by removal for cause on charges of misconduct or delinquency, is entitled to an annuity only if the participant has not declined a reasonable offer of another position for which he or she is qualified, which is not lower than two grades below his or her current position and which is in the same commuting area. Voluntary early retirements will be permitted only if a major reorganization, reduction in force, or transfer of function will result in a significant number of participants being separated or immediately reduced in pay. Participants retired under this subsection shall receive retirement benefits in accordance with the provisions of section 221."

Sec. 14. Section 291 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by adding a new subsection (g) as follows:

"(g)(1) An annuity shall not be increased by reason of an adjustment under this section to an amount which exceeds the greater of—

"(A) the maximum pay payable for GS-15 thirty days before the effective date of the adjustment under this section; or

"(B) the final pay (or average pay, if higher) of the participant with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in rates of pay of the General Schedule under subchapter I of chapter 53 of title 5 of the United States Code during the period—

(i) beginning on the date the annuity commenced (or, in the case of a survivor of the participant, the date of the participant's annuity commenced), and

(ii) ending on the effective date of the adjustment under this section.

"(2) For the purposes of paragraph (1) of this subsection, 'pay' means the rate of salary or basic pay as payable under any provision of law, including any provision of law limiting the expenditure of appropriated funds."

Sec. 15. Section 252(g) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by deleting "paragraph (b)" and inserting "paragraphs (b), (c)(4), and (h)" in lieu thereof.

Sec. 16. The amendments made by this Order shall be effective as follows:

- (a) Sections 2, 5, 9, 19, 12 and 13 shall be effective October 1, 1982.
- (b) Section 1 shall be effective October 1, 1982 but shall apply only with respect to income earned after December 31, 1982.
- (c) Section 3 shall apply with respect to deposits for service performed on or after October 1, 1982, and with respect to funds for which application is received on or after such date. The provisions of section 252, as in effect on September 7, 1982, shall continue to apply with respect to periods of service and refunds for which application was received on or before September 30, 1982.
- (d) Section 4 shall apply with respect to deposits for military service performed on or after October 1, 1982 and military service performed on or after January 1, 1957 and with respect to refunds for which applications are received by the Agency on or after October 1, 1982. The provisions of section 221(k), as in effect on September 7, 1982 shall continue to apply with respect to periods of civilian service occurring before October 1, 1982.
- (e) Section 6 and Section 7 shall apply with respect to any annuity commencing on or after October 1, 1982, and with respect to any adjustment or redetermination of any annuity made on or after such date.
- (f) Section 8 shall apply to annuities which commence on or after January 1, 1983.
- (g) Section 11 shall take effect October 1, 1982 except that any participant who retired after September 8, 1982 and before October 1, 1983, or is entitled to an annuity under the CIA Retirement Act of 1964 for Certain Employees, as amended, based on a separation from service occurring during such period, or a survivor of such individual, may make a payment under section 252(h).
- (h) Section 14 shall not cause any annuity to be reduced below the rate that is payable on September 8, 1982 but shall apply to any adjustment occurring on or after this date under section 291, or to any annuity payable from the Central Intelligence Agency Retirement and Disability Fund, whether such annuity has a commencing date before, on, or after September 8, 1982.
- (i) Section 15 shall be effective as of September 8, 1982.

Ronald Reagan

THE WHITE HOUSE,
September 27, 1983.

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